

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SUSANNA MIRKIN and BORIS MIRKIN,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

No. 18 Civ. 2949 (ARR) (JAM)

v.

XOOM ENERGY, LLC and XOOM ENERGY
NEW YORK, LLC,

Defendants.

DECLARATION OF MICHAEL D. MATTHEWS, JR.
IN SUPPORT OF DEFENDANTS' MOTION TO DECERTIFY THE CLASS

Michael D. Matthews, Jr., under penalty of perjury, declares as follows:

1. I am a partner of the law firm McDowell Hetherington LLP, attorneys for Defendants XOOM Energy, LLC and XOOM Energy New York, LLC. I submit this Declaration in support of Defendants' motion to decertify the class.
2. Annexed hereto as Exhibit A-1 is a true and correct copy of the Expert Report of David C. Coleman on Behalf of XOOM Energy, LLC, and XOOM Energy New York, LLC, dated October 31, 2022.
3. Annexed hereto as Exhibit A-2 is a true and correct copy of Doc. 147, Plaintiff's redacted response in opposition to XOOM's motion for summary judgment.
4. Annexed hereto as Exhibit A-3 is a true and correct copy of relevant excerpts from the Deposition of Seabron Adamson dated November 8, 2022.

5. Annexed hereto as **Exhibit A-4** is a true and correct copy of the Rebuttal Report of David C. Coleman on Behalf of XOOM Energy, LLC, and XOOM Energy New York, LLC, dated November 4, 2022.

6. Annexed hereto as **Exhibit A-5** is a true and correct copy of the Expert Report of Derya Eryilmaz and Seabron Adamson dated October 3, 2022, without attachments.

7. Annexed hereto as **Exhibit A-6** is a true and correct copy of Exhibit 4 to the Expert Report of Derya Eryilmaz and Seabron Adamson dated October 3, 2022 (Model One).

8. Annexed hereto as **Exhibit A-7** is a true and correct copy of Exhibit 5 to the Expert Report of Derya Eryilmaz and Seabron Adamson dated October 3, 2022 (Model Two).

9. Annexed hereto as **Exhibit A-8** is a true and correct copy of Exhibit 7 to the Expert Rebuttal Report of Derya Eryilmaz and Seabron Adamson dated November 4, 2022 (what they describe as the “calculations” in Model Two “for the Mirkins”).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 1, 2024.



Michael D. Matthews, Jr., Esq.